

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**Criminal Case No. 1:15-cr-00073**

**UNITED STATES OF AMERICA,**

**v.**

**KENNETH BREWINGTON,**

**Defendant.**

---

**SUPERSEDING INDICTMENT**

---

The Grand Jury charges that:

**Introduction**

**The Defendant and Relevant Entities**

1. The Defendant **KENNETH BREWINGTON** was a resident of Corona, California. **BREWINGTON** purported to be an independently wealthy individual who provided financing to individuals and businesses.
2. Compass Financial Solutions, LTD (“CFS”), was a financial services marketing company with its principal offices located in Denver, Colorado. CFS was formed in or around 2000, and continued its operations into 2011. CFS had a sales and marketing staff which sold various financial products to investors located throughout the United States, including to investors located in Denver, Colorado.

3. From at least in or around November 2005 through at least in or around April 2011, CFS marketed and sold promissory notes that were guaranteed by CFS, and marketed and sold promissory notes that were guaranteed by **BREWINGTON**. In addition, CFS sold millions of dollars in notes on behalf of other individuals and entities, for which CFS's sales staff received sales commissions.

#### The Co-Conspirators

4. Co-conspirator B.E. was a resident of Lakewood, Colorado. From 2000 to 2011, B.E. served as CFS's Chief Executive Officer.
5. Co-conspirator B.D. was a resident of Denver, Colorado and a licensed attorney. From in or around 2002 to in or around 2010, B.D. served as the corporate counsel for CFS.

#### The Scheme to Defraud

6. B.E. and others associated with CFS promised investors that the proceeds they raised through the sale of promissory notes purportedly guaranteed by CFS would be used for the operating expenses and expansion of CFS, and that investors in the notes would receive high returns on their investment through monthly interest payments.
7. B.E. instead used funds from investors who purchased the notes purportedly guaranteed by CFS primarily for (1) interest and principal payments owed to investors on earlier promissory notes, and (2) salary, bonuses, and personal expenses for B.E. and B.E.'s family.
8. In or around August 2010, CFS began defaulting on the promissory notes it had guaranteed. Also in or around August 2010, **BREWINGTON**, B.E., B.D., and others, began offering new notes to investors through CFS that were purportedly guaranteed by **BREWINGTON**.
9. In or around September 2010, **BREWINGTON**, B.E., and others, negotiated with investors who had purchased notes guaranteed by CFS to (1) allow **BREWINGTON** to assume CFS's

obligations under the notes and (2) agree that **BREWINGTON** could delay making interest and principal payments to investors on the assumed notes.

10. To induce investors to (1) allow **BREWINGTON** to assume CFS's obligations under the previously issued notes and delay making interest and principal payments under the notes, and (2) invest in the new notes guaranteed by **BREWINGTON**, **BREWINGTON**, B.E., B.D., and others, falsely claimed that **BREWINGTON** held hundreds of millions of Euros in **BREWINGTON's** company's overseas bank accounts. **BREWINGTON**, B.E., B.D. and others also falsely told investors that the proceeds from the sale of the notes purportedly guaranteed by **BREWINGTON** would be used by **BREWINGTON** to obtain the release of his overseas funds.
11. To disguise from investors the fact that the proceeds from the sale of the notes guaranteed by **BREWINGTON** were not in fact going to be used to "release" the millions of Euros supposedly held by **BREWINGTON** in overseas accounts, **BREWINGTON**, B.E., B.D., and others, agreed to have investors wire their funds to B.D.'s attorney trust account, as an intermediate step before the funds were sent to either **BREWINGTON** or his co-conspirators. For example, on or about August 16, 2010, in Chatfield, Colorado, **BREWINGTON**, B.E., B.D., and others, caused victim-investor C.G. to wire approximately \$100,000 from C.G.'s account at U.S. Bank, representing an investment by C.G. in the notes guaranteed by **BREWINGTON**, to B.D.'s attorney trust account. On the next day, on or about August 17, 2010, **BREWINGTON**, B.E., B.D., and others, caused the investor's funds to be wired from B.D.'s attorney trust account to an account controlled by B.E.
12. **BREWINGTON**, B.D., B.E., and others transferred and caused to be transferred millions of dollars that they fraudulently obtained from investors, from and among bank accounts

located in Denver, Colorado and elsewhere, and diverted the fraudulent proceeds to pay other noteholders and for personal use.

13. **BREWINGTON**, B.E., B.D., and others, also provided fake and fraudulent documents to investors that purported to show that **BREWINGTON** held 500 million Euros at ABN AMRO Bank N.V. (“ABN AMRO”) in Amsterdam. These fake and fraudulent documents included a “Proof of Funds” certification which appeared to be issued by ABN AMRO and which purported to certify that the 500 million Euros was being held on deposit in cash and that the funds were freely transferrable upon the instructions of **BREWINGTON**. In truth, neither **BREWINGTON** nor his co-conspirators owned or controlled the claimed funds.
14. On or about September 14, 2010, **BREWINGTON** mailed two of the fraudulent ABN AMRO documents from Corona, California, to co-conspirator B.E. in Buffalo Creek, Colorado, so that B.E. and other CFS employees could use the documents to solicit investors for the notes purportedly guaranteed by **BREWINGTON**.

#### **The Victims**

15. **BREWINGTON** assumed CFS’s obligations for approximately \$2,219,509 worth of notes that were purportedly guaranteed by CFS. In addition, **BREWINGTON**, B.E., B.D., and others, sold approximately \$416,752 worth of promissory notes to investors that were purportedly guaranteed by **BREWINGTON**, including:
  - (a) on or about August 16, 2010, **BREWINGTON**, B.E., B.D., and others, obtained approximately \$100,000 from Individual C.G.;
  - (b) on or about August 19, 2010, **BREWINGTON**, B.E., B.D., and others, obtained approximately \$216,752.01 from Individuals C.B., K.M., R.T., and T.T.; and,

(c) on or about October 8, 2010, **BREWINGTON**, B.E., B.D., and others, obtained approximately \$100,000 from Individual D.D.

**The Charges**

**COUNT ONE**

**(Conspiracy to Commit Wire Fraud and Mail Fraud)**

16. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

17. By at least in or around September 2009 and continuing into 2011, the exact dates being unknown to the Grand Jury, in the District of Colorado and elsewhere, the Defendant **KENNETH BREWINGTON** knowingly combined, conspired, confederated, and agreed with others known and unknown, to commit an offense against the United States, namely:

(a) wire fraud, that is, to knowingly and with an intent to defraud, devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made; and for the purpose of executing the scheme and artifice, knowingly transmit and cause certain wire communications to be transmitted in interstate and foreign commerce, in violation of Title 18, United States Code, Section 1343, and;

(b) mail fraud, that is, to knowingly and with an intent to defraud, devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises; and for the purpose of executing such scheme, knowingly place and cause to be placed in a post office and authorized deposit for mail matter a thing to be sent and delivered by

the U.S. Postal Service and any private and commercial interstate carrier, in violation of Title 18, United States Code, Section 1341.

**Purposes of the Conspiracy**

18. The purposes of the conspiracy were to (a) enrich **BREWINGTON** and his co-conspirators through the sale of promissory notes and other financial products to investors located throughout the United States, including in Denver, Colorado; (b) conceal from investors the true financial condition of **BREWINGTON**, his co-conspirators, and the entities **BREWINGTON** and his co-conspirators owned and controlled; and (c) conceal from investors the manner in which **BREWINGTON** and his co-conspirators were using investor proceeds.

**Ways, Manners, and Means**

19. The grand jury incorporates by reference paragraphs 6 through 15 of this Superseding Indictment as a description of the ways, manners, and means of the conspiracy.

(All in violation of Title 18, United States Code, Section 1349.)

**COUNT TWO**  
**(Mail Fraud)**

20. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

21. By at least in or around September 2009 and continuing into 2011, the exact dates being unknown to the Grand Jury, in the District of Colorado and elsewhere, the Defendant **KENNETH BREWINGTON**, aided and abetted by others known and unknown to the Grand Jury, knowingly and with an intent to defraud, devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

**Purposes of the Scheme and Artifice**

22. The Grand Jury realleges and incorporates by reference paragraph 18 of this Superseding Indictment as a description of the purposes of the scheme and artifice.

**The Scheme and Artifice**

23. The Grand Jury realleges and incorporates by reference paragraphs 6 through 15 of this Superseding Indictment as a description of the scheme and artifice.

**Use of the Mails**

24. On or about the date specified below, the Defendant, in the District of Colorado and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud, did knowingly place and cause to be placed in a post office and authorized deposit for mail matter a thing to be sent and delivered by a private interstate carrier, as more particularly described below:

<b>Count</b>	<b>Approximate Date</b>	<b>Sent Via Federal Express</b>
2	September 14, 2010	Documents falsely claiming that <b>BREWINGTON</b> held 500 million Euros in his company's overseas bank account, mailed from <b>BREWINGTON</b> in Corona, California, to co-conspirator B.E. in Buffalo Creek, Colorado.

(All in violation of Title 18, United States Code, Sections 1341 and 2.)

**COUNTS THREE THROUGH EIGHT**  
**(Wire Fraud)**

25. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

26. By at least in or around September 2009 and continuing into 2011, the exact dates being unknown to the Grand Jury, in the District of Colorado and elsewhere, the Defendant **KENNETH BREWINGTON**, aided and abetted by others known and unknown to the

Grand Jury, did knowingly and with an intent to defraud, devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made.

**Purposes of the Scheme and Artifice**

27. The Grand Jury realleges and incorporates by reference paragraph 18 of this Superseding Indictment as a description of the purposes of the scheme and artifice.

**The Scheme and Artifice**

28. The Grand Jury realleges and incorporates by reference paragraphs 6 through 15 of this Superseding Indictment as a description of the scheme and artifice.

**Use of the Wires**

29. On or about the dates specified as to each count below, **BREWINGTON**, in the District of Colorado and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud, and attempting to do so, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as more particularly described below:

<b>Count</b>	<b>Approximate Date</b>	<b>Description of Wire Communication</b>
3	July 2010	Interstate conference call between <b>BREWINGTON</b> and B.E.
4	July 21, 2010	Interstate conference call among <b>BREWINGTON</b> , B.E., and others.
5	August 16, 2010	Interstate wire transfer of \$100,000 representing an investment by victim-investor C.G. in promissory notes purportedly guaranteed by <b>BREWINGTON</b>
6	September 2010	Interstate conference call among <b>BREWINGTON</b> , B.E., and others.
7	October 8, 2010	Interstate wire transfer of \$100,000 representing an investment by victim-investor D.D. in promissory notes purportedly guaranteed by <b>BREWINGTON</b>



8	April 2011	Interstate conference call between <b>BREWINGTON</b> and B.E.
---	------------	---

(All in violation of Title 18, United States Code, Sections 1343 and 2.)

**COUNT NINE**  
**(Conspiracy to Commit Money Laundering)**

30. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

31. By at least in or around September 2009 and continuing into 2011, the exact dates being unknown to the Grand Jury, in the District of Colorado and elsewhere, the Defendant **KENNETH BREWINGTON** knowingly combined, conspired, confederated, and agreed with others known and unknown, to commit the following offenses against the United States:

- (a) to conduct and attempt to conduct a financial transaction involving the proceeds of specified unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341, and wire fraud, in violation of Title 18, United States Code, Section 1343, knowing that the property involved in the financial transaction represents the proceeds of some form of unlawful activity, and knowing that the transaction is designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i), and;
- (b) to knowingly engage and attempt to engage in a monetary transaction by, through, and to a financial institution, affecting interstate commerce, in criminally derived property that was of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is mail fraud, in violation of Title 18, United

States Code, Section 1341, and wire fraud, in violation of Title 18, United States Code, Section 1343, in violation of Title 18, United States Code, Section 1957.

**Ways, Manners, and Means**

32. The grand jury realleges and incorporates by reference paragraphs 6 through 15 of this Superseding Indictment as a description of the ways, manners, and means of the conspiracy.  
(All in violation of Title 18, United States Code, Section 1956(h).)

**COUNT TEN**  
**(Laundering of Monetary Instruments)**

33. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

34. On or about the date specified below, **KENNETH BREWINGTON**, in the District of Colorado and elsewhere, conducted and attempted to conduct a financial transaction involving the proceeds of specified unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341, and wire fraud, in violation of Title 18, United States Code, Section 1343, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity.

<b>Count</b>	<b>Approximate Date</b>	<b>Approximate Amount</b>	<b>From</b>	<b>To</b>
10	October 13, 2010	\$70,000	B.D.  (U.S. Bank # XXXX-2404)	D.K.  (Bank of America # XXXX-7861)

(All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i) and 2.)

**COUNTS ELEVEN THROUGH TWELVE**

**(Monetary Transactions in Property Derived from Specified Unlawful Activity)**

35. The allegations set forth in paragraphs 1 through 15 of this Superseding Indictment are incorporated herein by reference.

36. On or about the dates specified as to each count below, **KENNETH BREWINGTON**, in the District of Colorado and elsewhere, did knowingly engage and attempt to engage in monetary transactions by, through, and to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341, and wire fraud, in violation of Title 18, United States Code, Section 1343.

<b>Count</b>	<b>Approximate Date</b>	<b>Approximate Amount</b>	<b>From</b>	<b>To</b>
11	September 24, 2010	\$65,000	B.D.  (U.S. Bank # XXXX-2404)	J.B.  (Bank of America # XXXX-7430)
12	October 13, 2010	\$15,000	D.K.  (Bank of America # XXXX-7861)	J.B.  (Bank of America # XXXX-7430)

(All in violation of Title 18, United States Code, Sections 1957 and 2.)

**Forfeiture Allegation**

37. Upon conviction of one or more of the offenses, conspiracy to commit wire and mail fraud; mail fraud; and wire fraud, as alleged in Counts 1-8 of this Superseding Indictment, the Defendant **KENNETH BREWINGTON** shall forfeit to the United States pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 1956(c)(7), and 1961(1), and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting or derived from

proceeds traceable to the commission of the offenses or conspiracy, including but not limited to a sum of money equal to \$2,568,261.01 in United States currency.

38. Upon conviction of one or more of the offenses alleged in Counts 9-12 of this Superseding Indictment, the Defendant **BREWINGTON** shall forfeit to the United States pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offenses, and any property traceable to such property.

39. Pursuant to Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), **BREWINGTON** shall forfeit substitute property, including, but not limited to, up to the value of the amount described in paragraph 38, if, by any act or omission of **BREWINGTON**, the property or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States to seek forfeiture of any other property of **BREWINGTON** up to the value of the forfeitable property described above.

(All in accordance with Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), Title 21, United States Code, Section 853(p), and Federal Rule Criminal Procedure 32.2(a).)

A TRUE BILL:

Ink signature on file in Clerk's Office

Foreperson

ANDREW WEISSMANN  
CHIEF, FRAUD SECTION

By: s/Jennifer G. Ballantyne  
Jennifer G. Ballantyne  
Trial Attorney  
Criminal Division, Fraud Section  
(I certify that I am a member in good standing of the  
bar in this court.)

Henry Van Dyck  
Trial Attorney  
Criminal Division, Fraud Section  
(I certify that I am a member in good standing of the  
bar in this court.)